

COMES NOW Plaintiff Joyce Flores (“Ms. Flores”) and Defendant Virginia Department of Corrections (“VDOC”), by their respective counsel, and stipulate to the below facts. The parties agree that either party can request all, or some, of the stipulated facts be read by the Court to the jury at any point of their respective case-in-chief or rebuttal.

STIPULATED FACTS

1. On September 24, 2018, VDOC prepared a talking points memorandum regarding the body scanner technology that stated “Unfortunately, this technology is not perfect and it is not able to distinguish tampons from contraband.” The talking points memorandum also states that “122 visitors to VADOC facilities were caught trafficking drugs between Jan. 2016 and today; 11 of those in a body cavity.” The talking points memorandum was received by VDOC Director, Harold Clarke, and VDOC Chief of Corrections, A. David Robinson, among others.
2. On October 15, 2018, VDOC Director, Harold Clarke sent a letter to Virginia Delegate Michael P. Mullin in which he wrote “Unfortunately, while our body scanners are very helpful in the search for contraband, they can only tell us that something is in a body cavity, not what that something is.”
3. In January 2019, VDOC prepared a talking points memorandum regarding the body scanner technology that stated, “Body scanners cannot differentiate between tampons/menstrual cups or other contraband in a body cavity.” The memorandum goes on to state that “Since October 2018, there have been 28 incidents of visitors attempting to bring contraband into the correctional facilities and 8 of those involved male or female visitors concealing contraband in body cavities.”
4. In January 2019, VDOC Legislative Liaison, Marie Vargo, answered questions at the Virginia General Assembly on behalf of VDOC at a public hearing of the House Militia, Police and Public Safety Subcommittee 2 at which time she stated “We can’t tell what’s in someone as they go through a body scanner. We just can’t tell if it’s drugs or a tampon. It just shows if there’s something wrong.”

5. Ms. Flores completed VDOC mandatory orientation training regarding institutional policies and procedures, rules of conduct governing of employee relationships with offenders, sexual harassment/workplace harassment, key and tool control, emergency plans, PREA, and basic gang awareness. The training was conducted by VDOC employees in the training department at Augusta Correctional Center.
6. Ms. Flores was placed at Augusta Correctional Center by NCVA Staffing and contracted to perform dental hygiene services to Augusta Correctional Center dental department. Ms. Flores was paid by NCVA Staffing.
7. In order to be eligible to work at Augusta Correctional Center, Ms. Flores submitted to a background check and drug screen conducted by VDOC.
8. VDOC relies on the contract administrator with the staffing agency to provide a qualified applicant.
9. Purchase orders for contracted staff are generally for one year on an as-needed basis, but that does not guarantee that the contracted staff will actually work one full year and the purchase order for the contracted staff can be extended beyond one year.
10. Dr. Werner Wiedemann, a VDOC employee, signed off on Ms. Flores' weekly timesheet.
11. Dr. Wiedemann, a VDOC employee, keeps a file for each employee he supervises.
12. Dr. Wiedemann kept a file on Ms. Flores that included verification of the VDOC trainings she completed, her dental hygiene license, forms she had signed, and her timesheets.
13. Dr. Wiedemann, a VDOC employee, supervised Ms. Flores' day to day work at Augusta Correctional Center. The staffing agency did not have any supervisors on site at Augusta Correctional Center.

14. VDOC recommends a maximum hour that the contracted staff can work, not to exceed 40 hours a week on an as-needed basis.
15. The on-site clinical supervisor, Dr. Wiedemann set Ms. Flores' schedule and determined how many hours a week Ms. Flores worked.
16. VDOC provided dental training to Ms. Flores at the annual VDOC dental conference she attended in 2019.
17. VDOC provided all the tools and equipment Ms. Flores used to perform her work at Augusta Correctional Center.
18. Dr. Wiedemann never completed a written performance evaluation of Ms. Flores.
19. Ms. Flores was not listed as a classified state employee.
20. The warden of Augusta Correctional Center had the authority to terminate Ms. Flores' assignment.
21. Warden Woodson placed Ms. Flores on administrative leave on July 17, 2019.
22. Warden Woodson terminated Ms. Flores' assignment on or about July 31, 2019.
23. Ms. Flores came to work at Augusta Correctional Center on the morning of Wednesday, July 17, 2019.
24. Ms. Flores was scanned by the body scanner prior to entering the secure side of the prison.
25. Ms. Flores passed through the scanner at approximately 8:30 am.

Respectfully submitted,

JOYCE FLORES

/s/ Paul M. Falabella

Harris D. Butler, III (VSB No. 26483)

Paul M. Falabella (VSB No. 81199)

Butler Curwood, PLC

140 Virginia Street, Suite 302

Richmond, Virginia 23219

Telephone: (804) 648-4848

Facsimile: (804) 237-0413

Email: harris@butlercurwood.com

Email: paul@butlercurwood.com

VIRGINIA DEPARTMENT OF CORRECTIONS

/s/

Nathan H. Schnetzler (VSB No. 86437)

FRITH ANDERSON + PEAKE, P.C.

29 Franklin Road, SW

P.O. Box 1240

Roanoke, Virginia 24006-1240

Phone: (540) 772-4600

Fax: (540) 772-9167

Email: nschnetzler@faplawfirm.com

Counsel for Virginia Department of Corrections

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of September 2022, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send notification of such filing to counsel of record.

/s/ Paul M. Falabella
Paul M. Falabella (VSB No. 81199)
Butler Curwood, PLC
140 Virginia Street, Suite 302
Richmond, Virginia 23219
Telephone: (804) 648-4848
Facsimile: (804) 237-0413
Email: paul@butlercurwood.com